

Nuclear Regulatory Commission

§ 110.1

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APPENDIX P TO PART 110—CATEGORY 1 AND 2 RADIOACTIVE MATERIAL

AUTHORITY: Atomic Energy Act secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 223, 234 (42 U.S.C. 2071, 2073, 2074, 2077, 2092-2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154-2158, 2201, 2231-2233, 2237, 2239, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841; Solar, Wind, Waste, and Geothermal Power Act of 1990 sec. 5 (42 U.S.C. 2243); Government

Paperwork Elimination Act sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, 119 Stat. 594.

Sections 110.1(b)(2) and 110.1(b)(3) also issued under 22 U.S.C. 2403.

Section 110.11 also issued under Atomic Energy Act secs. 54(c), 57(d), 122 (42 U.S.C. 2074, 2152).

Section 110.50(b)(3) also issued under Atomic Energy Act sec. 123 (42 U.S.C. 2153).

Section 110.51 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234).

Section 110.52 also issued under Atomic Energy Act sec. 186, (42 U.S.C. 2236).

Sections 110.80-110.113 also issued under 5 U.S.C. 552, 554.

Sections 110.130-110.135 also issued under 5 U.S.C. 553.

Sections 110.2 and 110.42(a)(9) also issued under Intelligence Authorization Act sec. 903 (42 U.S.C. 2151 *et seq.*).

SOURCE: 43 FR 21641, May 19, 1978, unless otherwise noted.

Subpart A—General Provisions

§ 110.1 Purpose and scope.

(a) The regulations in this part prescribe licensing, enforcement, and rule-making procedures and criteria, under the Atomic Energy Act, for the export of nuclear equipment and material, as set out in §§ 110.8 and 110.9, and the import of nuclear equipment and material, as set out in § 110.9a. This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 110.7b.

(b) The regulations in this part apply to all persons in the United States except:

(1) Persons who import or export U.S. Munitions List nuclear items such as uranium depleted in the isotope-235 and incorporated in defense articles. These persons are subject to the regulations promulgated pursuant to the Arms Export Control Act and administered by the Department of State, Directorate of Defense Trade Controls, and the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, as authorized by section 110 of the International Security and Development Cooperation Act of 1980.

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(2) Persons who export uranium depleted in the isotope-235 and incorporated in commodities solely to take advantage of high density or pyrophoric characteristics. These persons are subject to the controls of the Department of Commerce under the Export Administration Act, as continued in force under Executive Order 13222 (August 22, 2001), as extended;

(3) Persons who export nuclear referral list commodities such as bulk zirconium, rotor and bellows equipment, maraging steel, nuclear reactor related equipment, including process control systems and simulators. These persons are subject to the licensing authority of the Department of Commerce pursuant to 15 CFR part 730 *et seq.*;

(4) Persons who import deuterium, nuclear grade graphite, or nuclear equipment other than production or utilization facilities. A uranium enrichment facility is not a production facility for the purposes of import; and

(5) Shipments which are only passing through the U.S. (in bond shipments) do not require an NRC import or export license; however, they must comply with the Department of Transportation/IAEA packaging, and State transportation requirements.

[49 FR 47197, Dec. 3, 1984; 49 FR 49841, Dec. 24, 1984, as amended at 55 FR 34519, Aug. 23, 1990; 56 FR 40692, Aug. 15, 1991; 58 FR 13001, Mar. 9, 1993; 61 FR 35602, July 8, 1996; 63 FR 1900, Jan. 13, 1998; 65 FR 70289, Nov. 22, 2000; 75 FR 44085, July 28, 2010]

§ 110.2 Definitions.

As used in this part,

Accelerator-produced radioactive material means any material made radioactive by a particle accelerator.

Agreement for cooperation means any agreement with another nation or group of nations concluded under section 123 of the Atomic Energy Act.

Atomic Energy Act means the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*).

Bulk material means any quantity of any one or more of the radionuclides listed in Table 1 of Appendix P to this part in a form that is:

(1) Not a Category 1 radioactive source;

(2) Not a Category 2 radioactive source;

(3) Not plutonium-238; and

(4) Deemed to pose a risk similar to or greater than a Category 2 radioactive source.

Byproduct material means

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore (see 10 CFR 20.1003);

(3)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction, before, on, or after August 8, 2005 for use for a commercial, medical, or research activity; and

(4) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005 is extracted or converted after extraction for use in a commercial, medical, or research activity.

Classified Information means Classified National Security Information under Executive Order 13526, as amended, or any predecessor or successor Executive Order and Restricted Data under the Atomic Energy Act.

Commission means the United States Nuclear Regulatory Commission or its duly authorized representatives.

Common defense and security means the common defense and security of the United States.